

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEPHEN LIEBB,) No. C 07-5577 CW (PR)
)
Petitioner,)
)
v.) ORDER REOPENING CASE AND
) VACATING ORDER CONSOLIDATING THE
) PETITION WITH CASE NO. C 04-
R. AYERS, Jr., Warden,) 04213 CW (PR)
)
Respondent.)
_____)

Petitioner Stephen Liebb filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in Case No. C 07-5577 CW (PR) challenging the Board of Parole Hearings' (BPH) refusal to set a parole date at his fourth parole suitability hearing on July 27, 2006. He also had pending before this Court Case No. C 04-04213 CW (PR), a habeas corpus petition which challenges the findings of the BPH at Petitioner's July 17, 2003 parole suitability hearing.

In an Order dated January 22, 2008, the Court sua sponte consolidated his petition in Case No. C 07-5577 CW (PR) with the earlier one.

On January 29, 2008, Respondent filed an objection to the Court's January 22, 2008 Order. Respondent claims that nowhere in the petition in Case No. C 07-5577 CW (PR) does Petitioner "allege that he presented his claims in the state court, provide any information regarding any state court proceedings and the claims he raised there, or argue that the state court's proceedings were contrary to or an unreasonable application of clearly established

1 United States Supreme Court law." (Objection at 2.)

2 It appears that Petitioner may not have exhausted his state
3 remedies before filing the petition relating to his July 27, 2006
4 parole suitability hearing. (Pet. at 4-7.)

5 For this reason, the Court VACATES its January 22, 2008
6 Order. The Clerk of the Court shall REOPEN Case No. C 07-5577 CW
7 (PR). The Clerk shall file a copy of this Order in Case No. C 04-
8 4213 CW (PR), and shall serve a copy of this Order on the State
9 Attorney General who is listed as Respondent's counsel in Case No.
10 C 04-4213 CW (PR). The Clerk also shall send a copy of this Order
11 to Petitioner.

12 The Court will review the petition filed in Case No. C 07-
13 5577 CW (PR) in a separate written order.

14 IT IS SO ORDERED.

15 DATED: 2/5/08



16 CLAUDIA WILKEN
17 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 LIEBB,

5 Plaintiff,

6 v.

7 BROWN et al,

8 Defendant.
9 _____/

Case Number: CV04-04213 CW
CV07-05577 CW

CERTIFICATE OF SERVICE

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
11 Court, Northern District of California.

12 That on February 5, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
14 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
15 located in the Clerk's office.

16 Denise Alayne Yates
17 Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

18 Stephen Liebb C-60825
19 San Quentin State Prison
San Quentin, CA 94974

20 Dated: February 5, 2008

21 Richard W. Wieking, Clerk
22 By: Sheilah Cahill, Deputy Clerk
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